

**REMARKS**

Claims 1 and 3-8 are currently pending. Claim 1 has been amended. Support for the amendments to claim 1 may be found in the specification as originally filed, for example, paragraph [0004].

**I. Finality and Interview Summary**

The Office Action dated July 1, 2009 was stated to be a Final Office Action on the cover page. However, during a brief interview on July 13, 2009, the Examiner agreed that the Office Action should be non-final.

**II. The Rejection Based on Sakamaki in view of Applicant's Admitted Prior Art**

Claims 1 and 3-6 are rejected under 35 U.S.C. 103(a) as allegedly being unpatentable over Sakamaki (US 20020008840) in view of Applicant's Admitted Prior Art (APA).

Claims 7-8 are rejected under 35 U.S.C. 103(a) as allegedly being unpatentable over Sakamaki (US 20020008840) in view of Applicant's Admitted Prior Art (APA) as applied to claim 1 above, and in view of Takahashi (US 20060262401).

Applicants respectfully submit that the present invention is not rendered obvious over the disclosures of Sakamaki in view of APA or obvious over the disclosures of Sakamaki in view of APA and Takahashi and request that the Examiner reconsider and withdraw these rejections in view of the following remarks.

Applicants respectfully traverse the Examiner's position concerning the APA including the statement:

Additionally, it is possible to produce a birefringent film that is unexpectedly has excellent appearance with variations in birefringence, retardation, and alignment axis angle being suppressed ([0009]).

This statement is a description of Applicants' invention and can not be used as prior art and can not be used as a motivation or reason for combining the prior art or for results obtained thereby.

The present invention is characterized in that a polymer film is stretched in the width direction and shrunk in the longitudinal direction, so that the width direction coincides with the direction of the slow axis of a birefringent film to be produced.

In addition, according to the present invention, the stretching and shrinking are performed in combination under the condition of the specific parameter range, thereby producing a birefringent film with suppressed variations in alignment axis angle without causing a bowing phenomenon.

On the other hand, the birefringent film of Sakamaki has an alignment axis that is inclined with respect to the longitudinal direction (which is so-called oblique alignment). Thus, the slow axis of this birefringent film does not coincide with the width direction (see paragraphs [0128] and [0140] of Sakamaki). Therefore, the birefringent film of the present invention is different from that of Sakamaki in the direction of the slow axis.

Further, the Applicant's Admitted Prior Art (APA) discloses that a birefringent film is stretched in the width direction, so that the slow axis of this birefringent film is in the width direction.

However, since the birefringent film of Sakamaki is aligned obliquely (in other words, in neither the width direction nor the longitudinal direction), there is no motivation or reason to apply the APA to Sakamaki.

Further, Sakamaki merely broadly discloses the values in the parameter range of the present invention, but neither describes nor suggests nor provides any reason to use the method for producing a birefringent film whose slow axis is in the width direction. Thus, one skilled in the art would not have applied the APA to Sakamaki. Accordingly it is impossible to achieve the present invention from the teachings of Sakamaki and APA.

The disclosures of Takahashi do not overcome the deficiencies in the primary references Sakamaki and APA.

For the above reasons, it is respectfully submitted that the subject matter of claims 1 and 3-8 is neither taught by nor made obvious from the disclosures of Sakamaki in view of APA or Sakamaki in view of APA and Takahashi, and it is requested that the rejections under 35 U.S.C. §103(a) be reconsidered and withdrawn.

### **III. The Double Patenting Rejection**

Claims 1 and 3-8 are provisionally rejected on the ground of nonstatutory obviousness-type double patenting as allegedly being unpatentable over claim 1 of copending Application No. 11/244,159.

Since this is a provisional rejection, Applicants postpone response until one of the instant application or the copending Applications are in condition for allowance. See MPEP 804.I.B.

**IV. Conclusion**

In view of the above, Applicants respectfully submit that their claimed invention is allowable and ask that the rejections under 35 U.S.C. §103 be reconsidered and withdrawn. Applicants respectfully submit that this case is in condition for allowance and allowance is respectfully solicited.

If any points remain at issue which the Examiner feels may be best resolved through a personal or telephone interview, the Examiner is kindly requested to contact the undersigned at the local exchange number listed below.

If this paper is not timely filed, Applicants respectfully petition for an appropriate extension of time. The fees for such an extension or any other fees that may be due with respect to this paper may be charged to Deposit Account No. 50-2866.

Respectfully submitted,

**WESTERMAN, HATTORI, DANIELS & ADRIAN, LLP**

/LEE C. WRIGHT/

Lee C. Wright  
Attorney for Applicants  
Registration No. 41,441  
Telephone: (202) 822-1100  
Facsimile: (202) 822-1111

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